Case 1:07-cv-09606-NRB

Document 11

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JUDGE BUCHWALD

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff,

-v.-

Case No. 1 9606

OLEKSANDR DOROZHKO

Defendant,

DECLARATION OF PAUL A. GUMAGAY

I, PAUL A. GUMAGAY, pursuant to 28 U.S.C. § 1746, declare as follows:

- 1. I am a Senior Counsel in the Division of Enforcement of Plaintiff United States Securities and Exchange Commission ("SEC") in Washington, D.C. I am a member of the bar of the State of New York and a member of this Court. I make this declaration in support of the SEC's Emergency Application For A Temporary Restraining Order, An Order Freezing Assets And Granting Other Relief, And An Order To Show Cause Why A Preliminary Injunction Should Not Issue. This declaration is based on documents obtained by the SEC staff from various sources.
- 2. Attached as Exhibit A is a true and correct copy of a print-out from Bloomberg L.P., showing the opening and closing prices of IMS Health Incorporated (NYSE stock symbol: RX) for the period September 28, 2007 through October 19, 2007.
- 3. Attached as Exhibit B is a true and correct copy of Passport No. EC565300 issued to Oleksandr Dorozhko ("Dorozhko") by Ukraine on May 23, 2006, obtained by the SEC staff from Interactive Brokers LLC ("Interactive Brokers").

- 4. Attached as Exhibit C is a true and correct copy of the "Account Information For Oleksandr Dorozhko" provided to the SEC staff by Interactive Brokers relating to account U412281.
- 5. Attached as Exhibit D is a true and correct copy of the "Account Summary For Oleksandr Dorozhko" reflecting a single deposit of \$42,500 (USD) received by wire from Deutsche Bank Trust on October 4, 2007.
- 6. Attached as <u>Exhibit E</u> is a true and correct copy of a one-page document obtained from Interactive Brokers showing "Cashier Entry" and "Bank Activity" in account U412281 on October 4, 2007.
- 7. Attached as Exhibit F is a true and correct copy of a six-page "Activity Statement for October 17, 2007" for Dorozhko obtained from Interactive Brokers. I examined Exhibit F and extracted the trade activities in the put option contracts for the common stock of IMS Health. Based on this examination, I noted that, on October 17, 2007, Dorozhko purchased 300 put options (RX Oct '07 @ 25 Put) at a purchase price of \$3,214.90 and 330 put options (RX Oct '07 @ 30 Put) at a purchase price of \$38,456.
- 8. Attached as Exhibit G is a true a correct copy of a news article from Bloomberg captioned, "IMS Health Announces 12 Percent Revenue Growth In Third Quarter."
- 9. Attached as Exhibit H is a true and correct copy of a news article from Bloomberg captioned, "DJ IMS Health 3Q Net Falls 18% >RX."
- 10. Attached as Exhibit I is a true and correct copy of a nine-page "Activity Statement for October 18, 2007" for Dorozhko obtained from Interactive Brokers. I examined Exhibit G and extracted the trade activities in the put option contracts for the

common stock of RX. Based on this examination, I noted that, on October 18, 2007, Dorozhko sold all 630 put options (RX Oct '07 @ 25 Put and RX Oct '07 @ 30 Put) that he had purchased on October 17, 2007, at a profit of \$286,456.59.

11. Attached as Exhibit J is a true and correct copy of a nine-page document that appears to show transcripts of online chats between Dorozhko and representatives of Interactive Brokers on October 19, 2007 and October 22, 2007.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/29/07

Paul A. Gumagay